

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
STATE OF MISSOURI**

In Re:)
)
ARCH INSURANCE COMPANY) **Market Conduct Exam No. 1207-11-TGT**
(NAIC #11150))
)

ORDER OF THE DIRECTOR

NOW, on this 3rd day of April, 2016, Director John M. Huff, after consideration and review of the Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) for the market conduct examination of Arch Insurance Company (NAIC #11150) (hereafter referred to as “Arch”), examination number 1207-11-TGT, does hereby issue the following orders:

This order, issued pursuant to §374.205.2(5) RSMo 2000, §§374.280 and 374.046.15. RSMo (Cum. Supp. 2013), is in the public interest.

IT IS THEREFORE ORDERED that Arch and the Division of Insurance Market Regulation having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that Arch shall not engage in any of the violations of law and regulations set forth in the Stipulation and shall implement procedures to place Arch in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri and to maintain those corrective actions at all times.

IT IS FURTHER ORDERED that Arch shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$145,000 payable to the Missouri State School Fund.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 3rd day of June, 2016.



John M. Huff
Director



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ARCH INSURANCE COMPANY) **Market Conduct Exam No. 1207-11-TGT**
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**STIPULATION OF SETTLEMENT
AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter “the Division”) and Arch Insurance Company (NAIC #11150) (hereinafter referred to as “Arch”), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter, “the Department”), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State in Missouri; and

WHEREAS, Arch has been granted a certificate of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Division conducted a Market Conduct Examination of Arch; and

WHEREAS, based on the Market Conduct Examination, the division alleges:

1. Arch failed to file individual rating plans for 338 large deductible workers compensation insurance policies in violation of §287.947¹.
2. Arch incorrectly applied waivers of subrogation to construction related classes in 8 policies in violation of §287.150.6, §287.947, §287.955.3 and 20 CSR 500-6.950.
3. Arch incorrectly rated 87 policies due to the application of an unfiled terrorism rate in violation of §287.947 and 287.955.3.

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2000, as amended.

4. In 68 instances, an audit was completed and billed more than 120 days from the expiration date of the policy in violation of § 287.955.1 and 20 CSR 500-6.500(2)(A).

5. Arch failed to document applied experience rating factors for 4 policies in violation of §287.947, §287.950, §287.955.1, 20 CSR 500-4.100 (7) (C) 1 and 20 CSR 300-2.200.

6. Arch failed to document applied schedule rating factors for 13 policies in violation of §287.947, §287.950, §287.937.2, 20 CSR 500-4.100 (7) (D) 1 and 20 CSR 300-2.200.

7. Arch incorrectly rated 1 policy due to an application of an incorrect class code.

WHEREAS, the parties agree that neither this document nor the agreements, settlements and compromises contemplated therein are to be deemed admissions of any violation, fault, improper conduct or negligence on the part of Arch or any of its subsidiaries, or any of them; and further, the parties agree that the Stipulation of Settlement and Voluntary Forfeiture is a compromise of disputed factual and legal allegations, and the payment of the forfeiture does not represent a concession that the agreements, settlements and compromise contemplated herein settle any question of law by either party.

WHEREAS, the Division and Arch have agreed to resolve the issues raised in the Market Conduct Examination as follows:

A. Scope of Agreement. This Stipulation of Settlement and Voluntary Forfeiture embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. Remedial Action. Arch agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times, to reasonably assure that the errors noted in the above-referenced market conduct examination do not recur. Such remedial actions shall include, but not be limited to, the following:

1. Arch agrees that it will make individual risk filings with the Director for all large deductible workers compensation insurance policies with Missouri premium or exposure within 30 days after the effective date of the policy.

2. Arch agrees to adhere to its filed terrorism rates and revise and refile any terrorism rates that deviate from the NCCI formula. Arch agrees to review all workers compensation insurance policies issued from January 1, 2010 to January 31, 2013 to determine if policyholders were overcharged based on an error in the terrorism factor. If any policyholders were overcharged, and the overcharge is equal to or greater than \$5.00, Arch agrees to refund the overcharge amount to the policyholder including interest at the rate of 9% per annum as required by §408.020.

3. Arch agrees not to issue a waiver of subrogation endorsement on policies with Missouri premium or exposure that includes only construction class codes. Arch agrees to review all workers compensation insurance policies issued from January 1, 2011 to the date of the Order closing this examination to determine if waiver of subrogation endorsements were issued on policies with Missouri premium or exposure that includes only construction codes. If a waiver of subrogation endorsement was improperly attached to the policy, Arch agrees to refund the cost of the endorsement to the policyholder, if the cost is equal to or greater than \$5.00, including interest at the rate of 9% per annum as required by §408.020.

4. Arch agrees to complete a schedule rating worksheet on every workers compensation insurance policy for each policy period and will maintain a copy of each worksheet in its policy files.

5. Arch agrees to use an experience rating worksheet on every workers compensation insurance policy in which an experience modification has been determined by the NCCI and will maintain a copy of each worksheet in its policy files.

6. Arch agrees that audits on workers compensation insurance policies with Missouri premium or exposure will be completed, billed and premiums returned within 120 days of policy expiration or cancellation unless a) a delay is caused by the policyholder's failure to respond to reasonable audit requests provided that the requests are timely and adequately documented or b) a delay is by the mutual agreement of the policyholder and Arch provided that the agreement is adequately documented.

C. Compliance. Arch agrees to file documentation with the Division within 120 days of the entry of a final order of any remedial actions taken to implement compliance with the terms of this stipulation and to documentation payment of restitution required by this stipulation.

D. Voluntary Forfeiture. Arch agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$145,000, such sum payable to the Missouri State School Fund, in accordance with §374.049 and §374.280 RSMo Supp. 2013.

E. Other Corrective Action and Penalties. The Division agrees that it will not seek penalties, corrective actions or restitution from Arch, other than those agreed to in this Stipulation, for the conduct found in Market Conduct Examination 1207-11-TGT relating to workers compensation insurance. The Division may seek additional penalties, corrective action and restitution from Arch for the conduct found in Market Conduct Examination 1207-11-TGT relating to travel insurance.

F. Waivers. Arch, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above referenced Market Conduct Examination.

G. Changes. No changes to this stipulation shall be effective unless made in writing and agreed to by all signatories to the stipulation.

H. Governing Law. This Stipulation of Settlement and Voluntary Forfeiture shall be governed and construed in accordance with the laws of the State of Missouri.

I. Authority. The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation of Settlement and Voluntary Forfeiture.

J. Effect of Stipulation. This Stipulation of Settlement and Voluntary Forfeiture shall not become effective until entry of a Final Order by the Director of the Department of Insurance, Financial Institutions and Professional Registration (hereinafter the "Director") approving this Stipulation.

K. Request for an Order. The signatories below request that the Director issue an Order approving this Stipulation of Settlement and Voluntary Forfeiture and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 6/2/2016



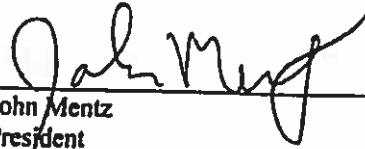
Angela Nelson
Director, Division of Insurance
Market Regulation

DATED: 6/2/2016



Stewart Freilich
Senior Regulatory Affairs Counsel
Division of Insurance Market Regulation

DATED: 5-24-16



John Mentz
President
Arch Insurance Company